

ORIGINAL



0000094548

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

Arizona Corporation Commission

DOCKETED

2009 MAR 13 A 9:33

MAR 13 2009

AL CORP COMMISSION  
DOCKET CONTROL

DOCKETED BY

*[Handwritten signature]*

COMMISSIONERS

KRISTIN K. MAYES, Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

IN THE MATTER OF THE COMPLAINT OF THE  
BUREAU OF INDIAN AFFAIRS, UNITED  
STATES OF AMERICA, AGAINST MOHAVE  
ELECTRIC COOPERATIVE, INC. AS TO  
SERVICES TO THE HAVASUPAI AND  
HUALAPAI INDIAN RESERVATIONS.

DOCKET NO. E-01750A-05-0579

**PROCEDURAL ORDER SETTING  
ORAL ARGUMENT ON MOTION TO  
STRIKE**

**BY THE COMMISSION:**

On August 10, 2005, the Bureau of Indian Affairs, United States of America, ("BIA" or "Complainant") filed the above-captioned Complaint against Mohave Electric Cooperative, Inc. ("Mohave" or "Respondent") with the Commission.

An evidentiary hearing was held on the Complaint commencing on November 18, 2008 and concluding on November 20, 2009.

On December 15, 2008, Mohave filed supplemental testimony as requested at the hearing.

A procedural conference was held on December 19, 2008, at which the parties agreed to a procedural schedule for BIA to respond to Mohave's supplemental testimony. The parties also agreed to a procedural schedule for filing closing briefs and reply briefs.

On January 16, 2009, BIA filed responsive supplemental testimony as agreed to at the December 19, 2009, procedural conference.

On February 18, 2009, Mohave filed a Submission of Supplemental Affidavits and Exhibits of Thomas Longtin.

On February 20, 2009, BIA and Mohave filed their initial closing briefs.

1 On March 6, 2009, BIA filed a Motion to Strike (1) Mohave's Submission of Supplemental  
2 Affidavits and Exhibits and (2) Portions of Mohave's Closing ("Motion").

3 At BIA's request, a telephonic procedural conference was held on March 12, 2009. Mohave,  
4 BIA and the Commission's Utilities Division ("Staff") appeared through counsel and discussed  
5 various procedural alternatives for addressing BIA's Motion. The parties agreed to continue the  
6 upcoming March 16, 2009 deadline for filing reply briefs to allow time for Mohave to file a Response  
7 to the Motion, and for BIA to file its Reply to Mohave's Response, and to have oral argument on the  
8 Motion.  
9

10 IT IS THEREFORE ORDERED that a **procedural conference** for the taking of **oral**  
11 **argument** on BIA's Motion to Strike (1) Mohave's Submission of Supplemental Affidavits and  
12 Exhibits and (2) Portions of Mohave's Closing is hereby scheduled to commence on **April 3, 2009,**  
13 **at 1:30 p.m.,** or as soon as practicable thereafter, at the Commission's offices, 1200 W. Washington,  
14 Hearing Room 1, Phoenix, Arizona.

15 IT IS FURTHER ORDERED that Mohave shall file, no later than March 20, 2009, a  
16 Response to BIA's Motion to Strike (1) Mohave's Submission of Supplemental Affidavits and  
17 Exhibits and (2) Portions of Mohave's Closing.  
18

19 IT IS FURTHER ORDERED that BIA shall file, no later than March 24, 2009, a Reply to  
20 Mohave's Response.  
21

22 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance  
23 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the  
24 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances  
25 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is  
26 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the  
27 Administrative Law Judge or the Commission.  
28

1 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized  
2 Communications) continues to apply to this proceeding and shall remain in effect until the  
3 Commission's Decision in this matter is final and non-appealable.

4 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive  
5 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

6 DATED this 13<sup>th</sup> day of March, 2009.  
7

8  
9  
10   
11 TEENA WOLFE  
12 ADMINISTRATIVE LAW JUDGE

13 Copies of the foregoing mailed/delivered/faxed  
14 this 13<sup>th</sup> day of March, 2009 to:

15 Michael A. Curtis  
16 Larry K. Udall  
17 William P. Sullivan  
18 Nancy A. Mangone  
19 CURTIS, GOODWIN, SULLIVAN, UDALL & SCHWAB, P.L.C.  
20 501 East Thomas Road  
21 Phoenix, Arizona 85012-3205  
22 Attorneys for Mohave Electric Cooperative, Inc.

23 Steven A. Hirsch  
24 Rodney W. Ott  
25 Landon W. Loveland  
26 BRYAN CAVE LLP  
27 Two North Central Avenue, Suite 2200  
28 Phoenix, Arizona 85004-4406  
Attorneys for Mohave Electric Cooperative, Inc.


Diane J. Humetawa  
Mark J. Wenker  
U S ATTORNEY'S OFFICE  
40 North Central Avenue, Suite 1200  
Phoenix, Arizona 85004-4408  
Attorneys for the Bureau of Indian Affairs,  
United States of America

1 Janice Alward, Chief Counsel  
2 Kevin Torrey, Staff Attorney  
3 Legal Division  
4 ARIZONA CORPORATION COMMISSION  
5 1200 West Washington Street  
6 Phoenix, Arizona 85007

7 Ernest Johnson, Director  
8 Utilities Division  
9 ARIZONA CORPORATION COMMISSION  
10 1200 West Washington Street  
11 Phoenix, Arizona 85007

12 ARIZONA REPORTING SERVICE, INC.  
13 2200 North Central Avenue, Suite 502  
14 Phoenix, Arizona 85004-1481

15 By:

16   
17 Debra Broyles  
18 Secretary to Teena Wolfe  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28